

DEPARTMENT OF THE ARMY
Raleigh Regulatory Field Office
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Raleigh, North Carolina 27615-6814
(Web page - <http://www.saw.usace.army.mil/wetlands/regtour.htm>)

Action ID No. 199700730

February 22, 2002

PUBLIC NOTICE

The NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, 1548 Mail Service Center, Raleigh, North Carolina 27699-1548, has applied for a Department of the Army (DA) Permit pursuant to SECTION 404 OF THE CLEAN WATER ACT to authorize the proposed discharge of fill material impacting up to 3.73 acres of wetlands, and 5,389 linear feet of stream, for construction of IMPROVEMENTS TO US 401, including a bypass of Rolesville, from SR 2044 (Ligon Mill Road) in WAKE COUNTY, to SR 1700 (Fox Park Road), south of Louisburg, in FRANKLIN COUNTY, NORTH CAROLINA, TIP NO. R-2814.

BACKGROUND:

The social, economic, and environmental impacts associated with reasonable and feasible build alternatives for this project have been described in an NCDOT/Federal Highway Administration Environmental Assessment dated October 11, 2001. According to NCDOT, the let date for the first section of Transportation Improvement Program (TIP) R-2814 is in FY 2003.

Within the Rolesville Bypass section of the project, the Environmental Assessment identifies and discusses two corridor alignment alternatives: An eastern bypass and a western bypass. By letter dated May 20, 1997, the Corps of Engineers concurred with the dropping of the western bypass as an alternative for further consideration. In 2001, the inter-agency NEPA/404 merger team concurred with the selection of four build alternatives in one section, and two alternatives in another section, as alternatives to be carried forward. The Environmental Assessment describes and discusses these alternative alignments.

PROJECT DESCRIPTION:

The following description of work is taken from data provided by the applicant. The four sections of the project, including the proposed build alternatives for two of the sections, are described below. Maps showing the location of the project, and the alignment of the alternatives, are included with this public notice.

Wetland types potentially impacted by the project include semi-permanently impounded areas, low elevation seeps, piedmont alluvial forests, piedmont bottomland forests and early successional communities. These wetland impact sites are designated in the following table.

Impacts by alternative are as follows:

SECTION	ALTERNATIVE	Wetland Impacts (acres)	Stream impacts (linear feet)
A		0	1,149
B	1	0	717
B	2	0	1,327
B	3	1.3	1,139
B	3A	0	985
B	4	0	0
B	5	0.26	683
B	6	0.09	847
C		1.02	774
D		1.15	1,292

In order to more fully integrate Section 404 permit requirements with the National Environmental Policy Act of 1969, and to give careful consideration to our required public interest review and 404(b)(1) compliance determination, the Corps of Engineers is soliciting public comment on the merits of the proposal and on the alternatives evaluated in the Environmental Assessment. At the close of this comment period, the District Engineer will evaluate and consider the comments received as well as the expected adverse and beneficial impacts of the proposed road construction to select the least environmentally damaging, practicable alternative (LEDPA). The District Engineer is not authorizing construction of the US 401 widening and bypass at this time. A final Department of the Army permit could be issued, if at all, only after our review process is complete, impacts to the aquatic environment have been minimized to the maximum extent practicable, and a compensatory mitigation plan has been approved.

NCDOT proposes to mitigate for the unavoidable impacts to wetlands and streams, associated with this project, by payment to the North Carolina Wetlands Restoration Program (NCWRP) for the required compensatory mitigation within the Tar and Neuse River Basins.

The Corps of Engineers has concurred with NCDOT's purpose of the proposed project, which is to alleviate existing and future capacity deficiencies and improve safety along this portion of US 401.

Functional design plans and the Environmental Assessment are available for review at the U.S. Army Corps of Engineers Regulatory Field Office at 6508 Falls of Neuse Road, Suite 120; Raleigh, North Carolina 27615-6845.

NCDOT will be holding public hearing for this project in the near future, and a Corps of Engineers representative will attend the hearing.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a Department of the Army permit be issued until the North Carolina Division of Water Quality has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404(b) of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and the project does affect one registered property, the Casine Plantation. NCDOT and FHWA will develop a Memorandum of Agreement in consultation with the North Carolina State Historic Preservation Officer (SHPO) to avoid, minimize or mitigate the effects on the property. NCDOT has also identified six other properties that are on or eligible for listing in the Register, and NCDOT, FHWA and SHPO have concurred on findings of no effect for two of the properties, and of conditional no adverse effect for the remaining four. NCDOT will conduct surveys for architectural and archaeological resources, and coordinate with the SHPO when more detailed designs have been completed. Consultation of the National Register constitutes the extent of cultural resource investigations by the District

Engineer. The District Engineer is otherwise unaware of the presence of such resources, except as described above. Presently, unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by work under the requested permit.

NCDOT has conducted surveys along the study corridors for suitable habitat for species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973. NCDOT subsequently determined that the project would have no effect on the bald eagle and red-cockaded woodpecker due to lack of suitable habitat in the study area. NCDOT will conduct further surveys and address potential impacts, including potential indirect and cumulative impacts, to Michaux's sumac, the dwarf-wedge mussel and the Tar spinymussel through a Section 7 consultation with the U.S. Fish and Wildlife Service. The District Engineer is otherwise unaware, based on available information, that the activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this

proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Generally, the decision whether to issue this DA permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the DA permit serves as application to the NCDWQ for certification.

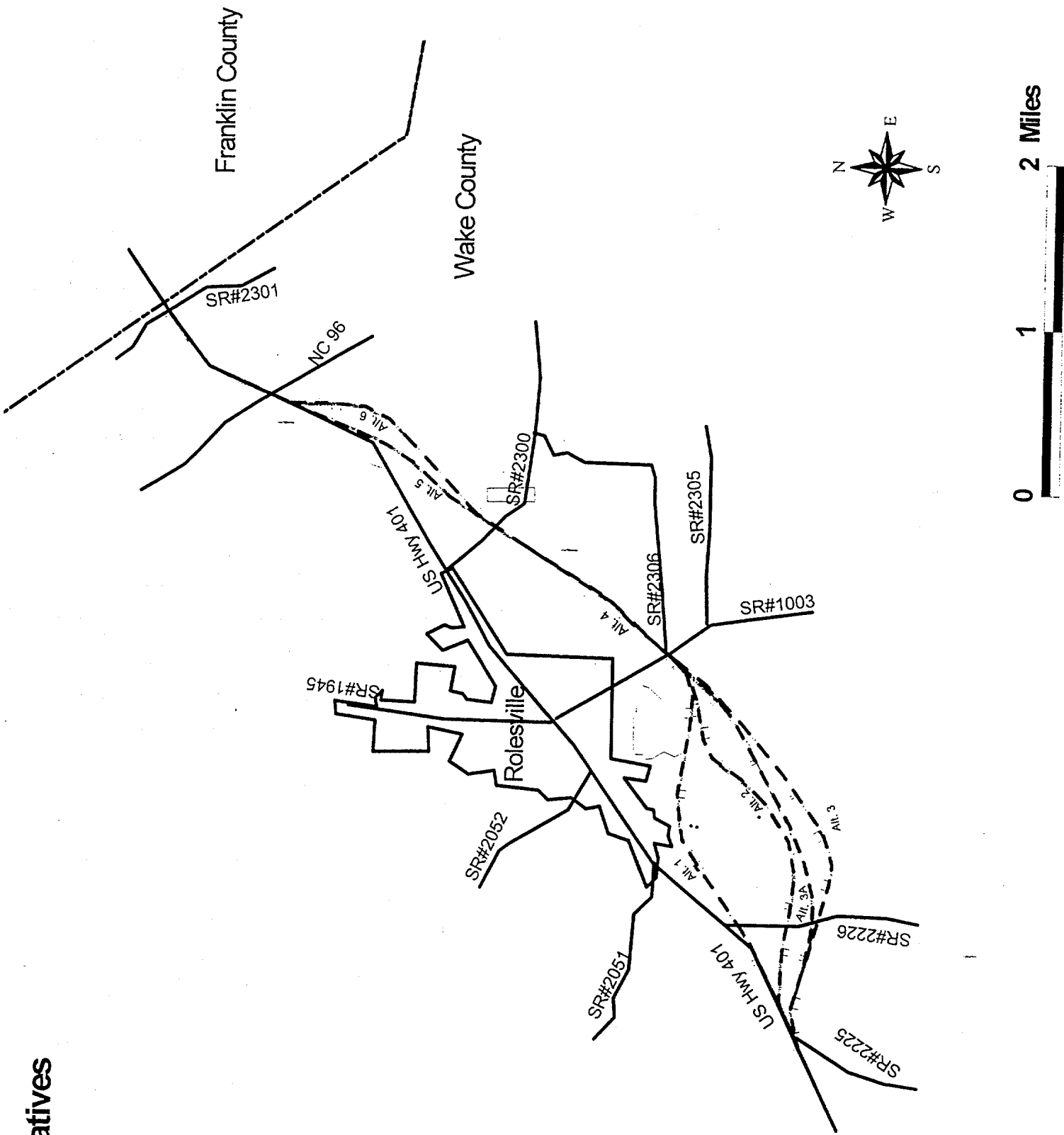
Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Wetlands /401 Unit, North Carolina DENR, Division of Water Quality, 2321 Crabtree Boulevard, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Department of Environment and Natural Resources, Division of Water Quality, 1650 Mail Service Center, Raleigh, NC 27699-1650, on or before March 22, 2002, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Eric Alsmeyer, until 4:15 p.m., March 22, 2002, or telephone 919-876-8441, extension 23.

By-Pass Alternatives

FIGURE 2



By-Pass Alternatives

FIGURE 3

